IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

WA.No. 1497 of 2007

AGAINST THE JUDGEMENT IN OP.6185/2003 Dated 14/03/2007

.....

APPELLANT/PETITIONER:

SHAJAN N.R. (FORMERLY ASSISTANT
SUB INSPECTOR OF POLICE, RAJAKKAD POLICE STATION),
NEDUMATTATHIL HOUSE, RAJAKKAD P.O., MULLAKKANAM,
PIN-685 566.

BY ADV. SRI.S.P.ARAVINDAKSHAN PILLAY
ADV SMT.N.SANTHA
ADV. SRI.PETER JOSE CHRISTO

RESPONDENTS/RESPONDENTS:

---

1. STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM.

2. SUPERINTENDENT OF POLICE, IDUKKI.

BY SR. GOVERNMENT PLEADER SMT. R. MEERA.

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 03/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

.....

W.A. No. 1497 OF 2007

.....

Dated this the 3rd July, 2007

J U D G M E N T

H.L. Dattu, C.J.:

A compulsorily retired Assistant Sub Inspector of Police is before us in this appeal, inter alia calling in question the correctness or otherwise of the orders passed by the learned single Judge in O.P.No. 6185 of 2003 dated 14th March, 2007.

2. Though several grounds are taken in the memorandum of appeal, at the time of hearing of this appeal for admission, learned counsel for the appellant would tell us that Ext P3 notice had been issued by the respondents along with Ext.P3 (a) report of the Vigilance Tribunal. It is his further contention that after the receipt of the show cause notice along with the report of the Vigilance Tribunal, he had filed a detailed statement of objections, bringing to the notice of the disciplinary authority that there were procedural irregularities in the conduct of the proceedings before the Vigilance Tribunal. It is his further contention that the findings of the Vigilance Tribunal in its report is not only perverse but wholly arbitrary.

3. This argument had been canvassed before the learned single

Judge. The learned single Judge, after noticing several decisions of the Apex Court, has come to the conclusion that the contentions of the learned counsel for the petitioner/appellant herein has no merit.

4. In order to do justice to the appellant, we thought it fit to direct the petitioner/appellant to file an affidavit before this court that he would not claim any monetary benefit from the date of compulsory retirement from service till a decision is taken by the disciplinary authority, in the event of we remanding the matter. We are informed that the petitioner will not claim any subsistence allowance or any other monetary benefit during this period. An affidavit in this regard is also filed.

5. The statement made by the learned counsel for the petitioner/appellant and the affidavit filed before this court is placed on record.

6. In view of the above, we dispose of this Writ Appeal as under:

i) The orders passed by the learned single Judge in O.P. No. 6185 of 2003 is set aside.

ii) A direction is issued to the disciplinary authority to consider Ext. P4 (objections filed to Ext.P3 notice) and pass appropriate orders, in accordance with law, within a period of two months from the date of receipt of a copy of this

order, without being influenced by any one of the observations made by the learned Single Judge in the course of the order.

iii) It is made clear that from the date of passing of the impugned order by the disciplinary authority till a decision is taken by him/her, pursuant to our order, the petitioner would not be entitled to any monetary benefits including subsistence allowance, except what has already been paid to the appellant.

iv) Ext.P5 and P8 Government Orders are also quashed.

v) With these observations and directions, the Writ Appeal is disposed of.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

lk